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13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 SAN FRANCISCO DIVISION

16 UNITED STATES OF AMERICA,) Case No. 19-71669-MAG

17 Plaintiff,) STIPULATION AND ~~[PROPOSED]~~
18 v.) PROTECTIVE ORDER

19 KEVIN FUQUA,)

20 Defendant.)

21 Plaintiff United States of America, by and through DAVID L. ANDERSON, United States
22 Attorney for the Northern District of California, and RICHARD EWENSTEIN, Assistant United States
23 Attorney for the Northern District of California, and the defendant, KEVIN FUQUA, through his
24 undersigned counsel, hereby stipulate and agree as follows:

25 a) This is a case in which the defendant is charged with a violation of 18 U.S.C. §§
26 1591(a)(1), (b)(2), a crime involving a victim and/or witness who is a minor (the Child Victim). As
27 such, the Child Victim is entitled to certain statutory protections, including: (1) Title 18, United States
28 Code, section 3509, which affords certain confidentiality protections to the Child Victim, including the
requirement that the Child Victim's name not be included in any public filings and that the parties keep
the names of the Child Victim in a secure place to which no person who does not have reason to know

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1 their contents has access; and (2) Title 18, United States Code, section 3771, which affords any victim of
2 a crime the right to be treated with fairness and respect for his or her dignity and privacy.

3 b) Some of the discovery materials the government intends to produce in this case may
4 include materials falling into one or more of the following categories (collectively, “Protected
5 Information”):

- 6 1. Personal Identifying Information of any individual, including without limitation any person’s
7 date of birth, social security number, residence or business address, telephone numbers, email
8 addresses, driver’s license number, professional license number, family members names, or
9 criminal histories (“Personal Identifying Information”);
- 10 2. The name and other personal information of the Child Victim;
- 11 3. Financial information of any individual or business, including without limitation bank
12 account numbers, credit or debit card numbers, account passwords, contact information, and
13 taxpayer identification numbers (“Financial Information”); and
- 14 4. Medical records or other patient information of any individual covered by the Health
15 Insurance Portability and Accountability Act of 1996 (HIPPA) (“Medical Information”);
- 16 5. Records related to law enforcement contacts with the Child Victim.

17 THEREFORE, THE PARTIES STIPULATE AND AGREE that the Court should enter an order
18 restricting the disclosure of the Protected Information described above as follows:

- 19 1. All Protected Information produced by the government in this matter shall be stamped on
20 its face “PROTECTED INFORMATION – SUBJECT TO PROTECTIVE ORDER.”
- 21 2. The following individuals (the “Defense Team”) may access and review Protected
22 Information for the sole purpose of preparing the defense:
 - 23 a) Counsel for defendant who have made an appearance in this matter; and
 - 24 b) Persons employed by defense counsel to assist with the preparation of the
25 defense, including legal assistants, experts, and investigators, but only after any such individual
26 has reviewed, signed, and dated a copy of this Protective Order to reflect his or her agreement to
27 be bound by it.
- 28 3. The Defense Team may review with the defendant all discovery material produced by the

1 government, but shall not provide the defendant with copies of, or permit the defendant to make copies
2 of or have unsupervised access to, any discovery material produced by the government that contains
3 Protected Information, unless the Personal Identifying Information, Financial Information, and/or
4 Medical Information has first been entirely redacted from the discovery materials. Discovery material
5 that clearly pertains to the defendant and does not contain Protected Information regarding any other
6 person (e.g., a defendant's own bank records, telephone records, and business records) may be provided
7 to the defendant unredacted.

8 4. The Defense Team shall not disclose the substance of any Protected Information received
9 from the government in the above-captioned matter to any third party without the express written
10 permission of the government or the approval of this Court.

11 5. The Defense Team shall refer to any Child Victim only by her first and last initials in all
12 pleadings and at any court hearings.

13 6. If the Defense Team files a pleading that references, contains, or attaches Protected
14 Information subject to this Protective Order, any portion of that pleading that references, contains, or
15 attaches Protected Information must be filed under seal. The Defense Team shall comply with Criminal
16 Local Rule 56-1 to ensure that Protected Information is not improperly disclosed but that any sealing
17 order is limited to those portions of the pleading for which there is a valid basis to seal.

18 7. After any judgment or disposition has become final and there are no pending
19 proceedings, challenges, appeals, or habeas motions in the case, and after the deadline for any 28 U.S.C.
20 § 2255 motion has expired, the Defense Team shall destroy all documents and electronic media subject
21 to this Protective Order, delete any electronic copies of such documents or electronic media, or return
22 such documents or electronic media to the government. Should the Defense Team seek to retain copies
23 of any documents or electronic media that would otherwise be subject to this Protective Order, the
24 Defense Team may seek from government counsel copies of such documents or electronic media with
25 all Protected Information appropriately redacted, or may seek any other appropriate relief from the
26 Court.

27 8. This Protective Order applies to all attorneys associated with the above case who have
28 knowledge of this Protective Order, regardless of the nature of their involvement in the case. This

1 Order shall be binding on all subsequent attorneys who represent the defendant in this case or any other
2 person who comes into possession of the documents disclosed to the Defense Team under this Protective
3 Order.

4 9. Any disputes about this Protective Order, including any dispute about the government's
5 decision to designate materials as Protected Information, shall be resolved by this Court only after
6 counsel for the United States and the defendant have first conferred and attempted to resolve the dispute.
7 Defense counsel shall first raise any disputed designation with the government in writing. If the
8 government does not then agree to change the designation, the defense may raise the issue with the
9 Court.

10 10. This stipulation is without prejudice to any party applying to the Court to modify the
11 terms of this Protective Order. This Court shall retain jurisdiction to modify this Protective Order upon
12 motion of any party even after the conclusion of district court proceedings in this case.

13 **IT IS SO STIPULATED.**

DAVID L. ANDERSON
United States Attorney

15 Dated: April 29, 2020

/s/
RICHARD EWENSTEIN
Assistant United States Attorney

18 **IT IS SO ORDERED.**

23 Dated: April 29, 2020

/s/
HARRIS TABACK
Counsel for Defendant **KEVIN FUQUA**


HONORABLE THOMAS S. HIXON
United States Magistrate Judge